

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 420 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

HARSHADBHAI @ HANSLO SHANKARBHAI RAVAL

Versus

DISTRICT MAGISTRATE, AHMEDABAD

Appearance:

MS BANNA DATTA for MR AR SHAIKH for Petitioner
MR KT DAVE, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 27/04/2000

ORAL JUDGEMENT

#. The petitioner - Harshadsbhai @ Haslo Shankarbhai Raval has been detained under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act" for short) by virtue of an order passed by District Magistrate, Ahmedabad, in exercise of powers

under Section 3(1) of the PASA Act, dated December 27, 1999.

#. The grounds of detention indicate that the detaining authority took into consideration five offences registered against the petitioner. The detaining authority also took into consideration the statements of two anonymous witnesses and came to conclusion that the petitioner is a "bootlegger", that his activities are detrimental to public order, that fear expressed by the witnesses qua the petitioner was genuine and therefore, powers under section 9(2) of the PASA Act were exercised by the detaining authority by not disclosing identity of these witnesses.

#. The only contention that is raised on behalf of the petitioner is that there is delay in forwarding the representation made on behalf of the detaining authority. A communication received by the detenu through jail authority is produced on record by learned advocate for the petitioner. That communication indicates that the representation dated January 12, 2000 was received by the detaining authority on January 15, 2000. The same has been forwarded to the government on January 25, 2000 i.e. after 10 days. The delay of 10 days has not been explained by the detaining authority.

#. Mr. K.T. Dave, learned AGP has opposed this petition. However, no affidavit-in-reply is filed to explain the delay of 10 days in forwarding the representation made on behalf of the detenu to the government. The delay in forwarding representation amounts to delay in considering the representation. The continued detention of the detenu, therefore, is vitiated. The petition, therefore, deserves to be allowed on this count alone.

#. The petition is allowed. The impugned order of detention dated December 27, 1999 is hereby quashed and set aside. The detenu - Harshadhai @ Haslo Shankarhai Raval is ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no order as to costs.

[A.L. DAVE, J.]

pirzada/-